

**LOCAL LAWS GUIDE**  
**DISTRICT OF COLUMBIA, MARYLAND, VIRGINIA**  
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## INTRODUCTION

This pamphlet should acquaint you with important laws in the National Capital Region – the District of Columbia, Maryland, and Virginia, including family law, motor vehicle registration, taxation, small claims courts, and assistance available for personal and legal problems.

Laws, regulations, addresses, and telephone numbers frequently change. You may find it useful to check Internet sites for the laws of the District of Columbia, Maryland, and Virginia. Here are Uniform Resource Locators for the main public law sites in case you want to check for other local information:

- **DC Council:** <http://www.dccouncil.washington.dc.us/>;  
DC Code: <http://dccode.westgroup.com/home/dccodes/default.wl>
- **Maryland:** <http://www.state.md.us/>;  
Laws: <http://www.mdarchives.state.md.us/msa/mdmanual/html/mmtoc.html>
- **Virginia:** <http://www.myvirginia.org>  
Laws: Virginia General Assembly <http://legis.state.va.us> (select Statutes or Regulations)

This material is not intended, nor should it be used, as an all-inclusive guide to the legal system, nor as a substitute for legal advice. Although we attempt to keep this information current, should you find data in need of update, please inform us so that it can be corrected in the next publication.

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## **SOLDIERS' AND SAILORS' CIVIL RELIEF ACT**

The Soldiers' and Sailors' Civil Relief Act (SSCRA) first passed by Congress in 1918, was reenacted in 1940, and subsequently amended in 1942, 1972 and 1991. The Act gives certain protection to military personnel whose legal rights or financial obligations are affected by their call to active duty. The SSCRA protects active duty service-members, reservists who are called to active duty (starting on the date active duty orders are received), and, in limited situations, dependents of servicemembers.

To receive protection under the SSCRA, the servicemember must be prepared to show the court that his or her military service has had a "material effect" on the legal or financial matter involved. Protection under the SSCRA must be requested during the servicemember's military duty or within 30 to 90 days after military service has ended, depending on the protection being requested.

Brief references to various protections of the SSCRA are made throughout this pamphlet. In some situations, the protections of the SSCRA are not automatic, but require some action by the individual seeking to invoke the Act. If you think that you have rights under the SSCRA that may have been violated, or that you are entitled to be shielded from a legal proceeding or financial obligation by the protections of the SSCRA, discuss the matter with a legal assistance attorney or a civilian lawyer as soon as possible.

Read more about the SSCRA: [SSCRA Provides Umbrella Protection](#) (DefenseLINK)

## **SECTION I. JURISDICTION**

### **A. SMALL CLAIMS COURTS**

1. Small claims courts allow you to resolve small claims in court with a minimum of time and expense and usually without the assistance of an attorney. Court costs are low, and the court procedures are simplified and relatively informal. Small claims courts commonly hear landlord-tenant, debtor-creditor, contractual, and motor vehicle property damage disputes.

a. **DISTRICT OF COLUMBIA.** The Small Claims and Conciliation Branch of the Superior Court of D.C. hears cases which are only for the recovery of money up to \$5,000.00, not including interest, attorneys fees, and court costs. D.C. Code § 11-1321. If both parties to an action agree, a Superior Court judge may settle a case by arbitration, regardless of the amount of the claim. D.C. Code §11-1322; McCray v. McGee, 504 A.2d 1128 (App. D.C. 1986).

b. **MARYLAND.** Maryland's small claims court hears cases where the amount in dispute is less than \$2,500. The small claims court is under the jurisdiction of the District Court. MD. Ann. Code 4 § 405.

c. **VIRGINIA.** The Small Claims Court has concurrent jurisdiction with the General District Court for all cases involving claims up to \$1,000. Cases involving claims between \$3,000.00 and \$15,000.00 may be heard either in the General District Court or in the Circuit Court. VA. Code §§ 16.1-122.1 and 122.2; VA. Code §16.1-77(1).

2. To resolve a dispute using small claims court, contact the appropriate Clerk of Court. Clerks of Court are generally very helpful and can provide information on the court process. They may have available a small claims "packet" with the information and forms you will need to file a claim and take it through to trial. Your local legal assistance attorney can assist you in preparing a case for trial, but cannot represent you in court.

### **B. OTHER COURTS**

#### **1. DISTRICT OF COLUMBIA COURTS**

The District of Columbia court system consists of one trial court, the Superior Court of the District of Columbia, and one appeals court, the District of Columbia Court of Appeals.

a. **SUPERIOR COURT OF D.C.** The Superior Court of the District of Columbia consists of a Civil Division, Criminal Division, Family Division, Probate Division, and Tax Division. The Superior Court is the court of general jurisdiction for any civil action or

other matter at law or in equity brought in the District of Columbia. The Superior Court has jurisdiction for all criminal cases. D.C. Code §§ 11-921 and 11-923.

b. **DISTRICT OF COLUMBIA COURT OF APPEALS** The highest court of the District of Columbia is the Court of Appeals. It was established to function in a manner similar to a state supreme court. This court has jurisdiction for appeals from all final orders and judgments, interlocutory orders of the Superior Court of D.C., and change of rulings of the Superior Court of D.C. appealed by the United States or the District of Columbia. D.C. Code § 11-721. The D.C. Court of Appeals also has jurisdiction to review orders and decisions of the Commissioner (mayor) of D.C., the D.C. Council, any agency in the District, and the D.C. Redevelopment Land Agency. D.C. Code § 11-722. The D.C. Court of Appeals may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any state on questions of the law of the District of Columbia. D.C. Code § 11-723.

## **2. MARYLAND COURTS**

a. **DISTRICT COURTS.** These are trial courts of special and limited jurisdiction over both civil and criminal cases. The District Courts have exclusive jurisdiction in all civil tort and contract cases where the matter in controversy is less than \$2,500, and no jury trial is demanded. There are no criminal jury trials in District Court and a jury is allowed in civil cases only where the amount in controversy exceeds \$5,000. The District Courts' criminal jurisdiction is limited to misdemeanors, most theft cases, violations of local ordinances, traffic cases, and preliminary hearings in felony cases. Since a jury trial is authorized in DWI/DUI cases, such a case may be moved to the Circuit Court. MD. Ann. Code § 4-401 and 402(e).

b. **CIRCUIT COURTS.** These are trial courts of general jurisdiction over both civil and criminal cases. Circuit Courts have exclusive jurisdiction in all cases involving declaratory judgments, equity (domestic relations), land titles, and amounts in controversy exceeding \$20,000 (except landlord/tenant and repossession of property actions which are heard only in District Court). Circuit Courts otherwise share concurrent jurisdiction with District Courts when the amount in controversy lies between \$2,500 and \$20,000, at the election of the plaintiff. Circuit Courts also exercise appellate jurisdiction over District Court cases. MD. Ann. Code § 1-501 and 4-402(d).

c. **PROBATE COURTS.** Probate administration, and guardian matters are handled by Orphans Court in Baltimore City and most counties. In Harford and Montgomery counties, probate matters are heard in the Circuit Court. MD. Ann. Code § 2-102.

d. **COURT OF SPECIAL APPEALS.** This is the Intermediate Appellate Court, which reviews appeals of cases decided by the Circuit Courts and the Orphans Court.



The Court has exclusive initial appellate jurisdiction over both civil and criminal cases, except as provided for death penalty cases. MD. Ann. Code § 12-308.

e. COURT OF APPEALS. The Court of Appeals is the highest court in Maryland. This court exercises appellate jurisdiction, and has exclusive jurisdiction in death penalty cases and certified questions of law. The Court of Appeals also reviews cases pending in or decided by the Court of Special Appeals and certain cases decided by the Circuit Courts. MD. Ann. Code § 12-307 in accordance with §12-305.

### **3. VIRGINIA COURTS**

a. DISTRICT COURTS. These courts are non-jury courts and are divided into a Civil Division, Criminal Division, General District Court (with jurisdiction over certain civil and criminal matters), and the Juvenile and Domestic Relations District Court. In civil matters, the General District Court has exclusive original jurisdiction for civil actions when the amount does not exceed \$3,000; and concurrent jurisdiction with the Circuit Court when the amount exceeds \$3,000 but does not exceed \$15,000. For an action not exceeding \$1,000.00, the General District Court may also establish a separate Small Claims Court. The General District Court handles misdemeanors and traffic-related charges. It also conducts preliminary hearings in potential felony cases. The Juvenile and Domestic Relations District Court exercises jurisdiction over juveniles under 18 years old, and over family matters, such as guardianship, custody, and support issues. VA. Code §§ 16.1-77, 1-122.1, and 1-122.2.

b. CIRCUIT COURTS. The Circuit Courts have general civil and criminal jurisdiction and have appellate jurisdiction over District Court cases. All actions for divorce or annulment are heard in this court, as are cases concerning debts, breach of contract, injury to a person or property, and recovery of specific property. The Circuit Courts hear jury trials, except that jury trials are not generally available in divorce cases and other Chancery (equity) actions. Claims involving amounts in excess of \$15,000 are heard only by the Circuit Court. VA. Code § 17.1-513.

c. COURT OF APPEALS. The Court of Appeals has jurisdiction over decisions of administrative agencies and Circuit Court decrees involving divorce, custody, spousal or child support, and adoption. It also has jurisdiction over Circuit Court convictions of traffic offenses and crimes, with the exception of those cases in which a death sentence has been imposed. VA. Code §§ 17.1-405 and 406.

d. SUPREME COURT. The Supreme Court of Virginia is the highest court in the state. It currently considers appeals from the judgments of the Circuit Courts and appeals from decisions of the Court of Appeals. Original Jurisdiction - VA. Const., Art. VI, § 1; VA. Code § 17.1-309 Appellate Jurisdiction - VA. Code § 17.1-310.

#### **4. U.S. FEDERAL MAGISTRATE'S COURT**

Civilians who are apprehended for minor offenses while on a Federal military reservation are subject to the jurisdiction of the U.S. Magistrate. This is a Federal, not a military, court and the judge may assess imprisonment up to and including one year and assess fines. Any person charged with a minor offense may choose to be tried before the U.S. District Court for the district in which the offense was allegedly committed. The U.S. Attorney has primary responsibility for prosecution. Defendants can be charged with and tried for offenses under both Federal and State law in the Magistrate's Court.

#### **C. SOLDIERS AND SAILORS CIVIL RELIEF ACT (SSCRA) PROTECTIONS**

The SSCRA allows a servicemember to request a stay, or postponement, of civil (**not** criminal) legal proceedings, if the servicemember can show the court that military service has a "material effect" which prevents the servicemember from appearing in court to represent him/herself. If the servicemember can show the court such material effect, the court must postpone legal proceedings until such time as the servicemember is reasonably able to appear before the court.

In addition, if a default judgment is entered against a servicemember during his or her active duty service, or within 30 days thereafter, the SSCRA allows the servicemember to reopen that default judgment and set it aside. In order to set aside default, the servicemember must show that he or she was prejudiced by not being able to appear in person, that he or she has good and legal defenses to the claims against him/her, and that he/she has made no prior appearance in court either personally or by attorney with respect to the subject matter of the current default judgment. Soldiers' and Sailors' Civil Relief Act of 1940; 50 App. U.S.C. 501 et seq.

### **SECTION II. FAMILY LAW**

#### **A. MARRIAGE**

##### **1. DISTRICT OF COLUMBIA**

###### **a. MARRIAGE REQUIREMENTS:**

(1) Age - 18 without parental consent. D.C. Code § 46-101. Age 16 with parental consent. D.C. Code § 46-411.

(2) Medical Examination – Standard blood test for syphilis. D.C. Code § 46-417.

(3) License Fee - \$2.00. D.C. Code § 15.717. Application and issuance of License - \$35.00.

(4) Waiting Period - License may be issued 3 days after application for license. D.C. Code §46-409. May be waived by a Judge of the Superior Court of the District of Columbia. D.C. Code §46-418.

(5) Solemnization - Any minister of a "religious society" authorized by any judge of the Superior Court of D.C. may perform a marriage. A marriage may also be solemnized by any judge or justice of any court of record. In addition, the clerk of the Superior Court of D.C. and designated deputy clerks of the court may also solemnize marriages.

Documents solemnizing a marriage must be returned to the Clerk of Superior Court by the person solemnizing the marriage within 10 days of the ceremony or a penalty of

\$50.00 may be imposed. D.C. Code §§ 46-406, 46-412 and 413.

b. ALTERNATIVE MARRIAGE FORMS:

(1) Common Law Marriage - Recognized. Matthews v. Britton. 303 F.2d 408 (D.C. Cir. 1962).

(2) Marriage by Proxy - Not recognized.

(3) Marriage by Contract - Not recognized.

c. PROHIBITED MARRIAGES: All marriages between parents and children, ancestors and descendants, brothers and sisters, uncles and nieces, aunts and nephews, step-relations, in-laws, and bigamous marriages. D.C. Code § 46-401.

d. GROUNDS FOR ANNULMENT: Mental incompetence, physical incapacity, bigamy, consent obtained by force, fraud or duress, underage, and any reason listed under "Prohibited Marriages." D.C. Code §§ 46-403, 16-904.

## **2. MARYLAND**

a. MARRIAGE REQUIREMENTS:

(1) Age - 18 without parental consent. Under 18 with parental consent or a physician's certificate that the female is pregnant or has given birth. Under age 16 with parental consent and a physician's certificate that the female is pregnant or has given birth. MD. Ann. Code § 2-301.

(2) Medical Examination - None required.

(3) License Fee - \$10.00. Additional fees may be required depending on the county in which the license is issued. MD. Ann. Code § 2-404.

(4) Waiting Period - License may be issued at the time of the application but will not become effective until 48 hours after receipt of the marriage application. \*Waivers for good cause if one party is in the military and can't use the license within 48 hours. MD. Ann. Code § 2-405.

(5) Solemnization - Any official of a religious order or body authorized by the rules and customs of that order or body to perform a marriage ceremony, any clerk, or any deputy clerk designated by the county administrative judge or the circuit court for the county, may perform a marriage ceremony. Documents solemnizing a marriage must be returned to the Clerk of Superior Court by the person solemnizing the marriage within 10 days of the ceremony, or a penalty of \$50.00 may be imposed. License Required - MD. Ann. Code § 2-406.

b. ALTERNATIVE MARRIAGE FORMS:

(1) Common Law Marriage - Not recognized, unless marriage occurred and was valid in another state prior to moving to Maryland. MD. Ann. Code § 2-401.

(2) Marriage by Proxy - Not recognized.

(3) Marriage by Contract - Not recognized.

c. PROHIBITED MARRIAGES: Marriages within three degrees of kindred marriages between parents and children, ancestors and descendants, brothers and sisters, uncles and nieces, aunts and nephews. Also, a man may not marry his

stepmother, stepdaughter, grandfather's wife, grandson's wife, mother-in-law, wife's grandmother, wife's granddaughter, or daughter-in-law. A woman may not marry the same relations in the alternative. Only marriages between men and women are valid. MD. Ann. Code § 2-202.

d. GROUND FOR ANNULMENT: Marriages within prohibited degrees of kindred, bigamy, and any reason listed under "Prohibited Marriages." If there is a criminal conviction for marrying within any prohibited degree, then the judgment of conviction may serve as annulment of the unlawful marriage. MD. Rule S76.

### **3. VIRGINIA**

#### **a. MARRIAGE REQUIREMENTS:**

(1) Age - 18 without parental consent. Age 16 with consent of parent or guardian. If either party is under 16, with a doctor's certificate that the female is pregnant or has been pregnant within 9 months of the examination and with the consent of parent or judicial officer. VA. Code § 20-48.

(2) Medical Examination - None required. VA. Code § 20-14.2.

(3) License Fee - \$10.00. VA. Code § 17.1-275.5.

License Tax - \$20.00. VA. Code § 20-15.

(4) Waiting Period - None. VA. Code § 20-14.1, Sixty (60) days for Solemnization or the license will expire.

(5) Solemnization - Any appointee of the court clerks with proper statutory bonding, other individuals authorized by competent judicial authority, and most ministers may perform marriages in a religious setting. Ministers-VA. Code § 20-23; Other than Ministers - VA. Code § 20-25. Requires License and Solemnization - VA. Code § 20-13.

#### **b. ALTERNATIVE MARRIAGE FORMS:**

(1) Common Law Marriage - Not recognized, unless the marriage occurred before moving to Virginia in a state that recognizes common law marriages.

(2) Marriage by Proxy - Not recognized.

(3) Marriage by Contract - Not recognized.

c. PROHIBITED MARRIAGES: Marriages between ancestors and descendants, brothers and sisters, whether half or whole blood, uncles and nieces, aunts and nephews, marriages between underage persons or those without mental capacity, bigamous marriages, and same-sex marriages. VA. Code §§ 20-38.1, 45.1, and 45.2.

d. GROUND FOR ANNULMENT: Mental incompetence, physical incapacity, bigamy, that either party had been a convicted felon or a prostitute prior to marriage, and any reason listed under "Prohibited Marriages." Must bring suit within 2 years of marriage, or immediately upon knowledge of such facts, with no cohabitation after obtaining such knowledge. VA. Code §§ 20-89.1 and 20-43. All marriages which are prohibited are void without any decree of divorce, or any other legal process.

### **B. ADOPTION.**

## **1. GENERAL**

Adoption is the legal process of terminating an existing relationship between a biological parent or parents and a child, and substituting a new parent or parents in their place. Adoption usually eliminates any and all rights a biological parent may have, absolutely and forever, and gives those rights without qualification or exception to the adopting parents. Any person, whether a minor or adult, may be adopted. Once finalized, an adoption is nearly irreversible.

There are two methods of proceeding with adoption: a private adoption and an agency adoption. A private adoption typically involves an adopting parent or parents and a child whose identity is previously known to them. The most common private adoptions are the stepparent adoption, where a stepparent adopts his or her spouse's children by a previous relationship, and the adoption by grandparents of a grandchild neglected or abandoned by the parents. Agency adoptions are varied. They can be accomplished using state welfare offices, foster care programs, church organizations, commercial agencies, and placement services.

To adopt through an agency, prospective adopting parents register with an agency, which then conducts a sociological survey to determine their suitability as parents and the best type of child for them. Once a child that matches the parents is found, the child will live with the adopting parents for a period of time under supervision of the agency to ensure that everything is working out. Only after this period of time has passed can the adoption be accomplished.

## **2. LEGAL PROCESS**

In order for an adoption to be accomplished, several steps must be followed. The parental rights of the natural parents must be terminated, a hearing must be conducted to determine whether the adopting parents are suitable parents, and a final decree of adoption must be entered by the court.

Parental rights can be terminated only by a court and only when there is "clear and convincing evidence" that it is in the best interests of the child. Parental rights may be terminated by voluntary consent of the natural parents. A consent signed by the natural parents is not binding upon them until the court approves it and the adoption is finalized. Parental rights may be terminated involuntarily if a court is satisfied a parent has abandoned the child, has failed to support the child, has abused the child, or has otherwise neglected parental responsibilities. Death terminates the parental rights of the deceased parent, but does not terminate the right of the child to share in the estate of the deceased parent. Once the child is adopted, however, any right to inherit from the natural parents is normally terminated.

In addition to determining whether parental rights should be terminated, the court must determine if the adoptive parents are suitable parents for the child. The court may make this determination in open court, but more commonly will ask an appropriate agency to investigate the home environment and return a confidential report to the

judge. An agency investigation may be waived under certain circumstances.

After appropriate notice to all who might have an interest in the case, the court conducts a final hearing. Thereafter, the judge will either approve or disapprove the adoption. If an adoption is approved, a new birth certificate with the adoptee's new name will be issued.

### **3. DISTRICT OF COLUMBIA**

a. WHO CAN PETITION FOR ADOPTION: Any adult person. D.C. Code § 16-302.

b. WHO MUST CONSENT TO THE ADOPTION: For a child under 18, all living parents or the adoptee's court-appointed guardian. Consent is not required if the parent cannot be located or if the parent has abandoned the adoptee and has voluntarily failed to contribute to the adoptee's support for six months prior to filing of the petition. An adoptee over 14 must consent to the adoption. D.C. Code § 16-304.

c. TIME BETWEEN FILING PETITION AND FINAL ADOPTION: At least six months. Final decree may not be entered unless the adoptee has been living with the petitioners for at least six months. D.C. Code § 16-309.

### **4. MARYLAND**

a. WHO CAN PETITION FOR ADOPTION: Any person over age 18. Spouses must file joint petitions.

b. WHO MUST CONSENT TO THE ADOPTION: Both natural parents and a child over 10 years of age.

c. TIME BETWEEN FILING PETITION AND FINAL ADOPTION: Two to six months.

### **5. VIRGINIA**

a. WHO CAN PETITION FOR ADOPTION: Any person over age 18. Spouses must file joint petitions. VA. Code § 63.1-219.9.

b. WHO MUST CONSENT TO THE ADOPTION: A child over 14 years of age. If a child was born during a marriage, that child's parents or surviving parent must consent. If the child was born out of wedlock, consent of his mother and his father (only if the father can be identified) must be given. Where a child is in the custody of a childplacing agency or a public welfare organization, consent of such a group is necessary. In any case where consent of the natural parent is required, the child must be at least ten days old at the time the consent is signed. VA. Code § 63.1-219.28 and 219.37.

c. TIME BETWEEN FILING PETITION AND FINAL ADOPTION: A stepchild 18 years of age or over may be adopted by a stepparent after one year of such a relationship. A niece or nephew over 18 years of age, if they have no living parents, may be adopted after one year of living with an uncle or an aunt. Any person over 18 years of age may be adopted if the person has resided for at least one year before becoming 18 in the house of the person seeking adoption.

## **C. DOMESTIC VIOLENCE AND NEGLECT**

Any physical abuse by one person against another member of his or her household is "domestic violence." It is as illegal as assault and battery against a stranger would be. "Neglect" may come in many forms, including physical neglect and emotional neglect. Both, like actual violence, are illegal. If you believe you or someone you know is being abused in any way - physically or emotionally - contact the Department of Social Services in your area or your local police department.

**1. DISTRICT OF COLUMBIA.** Upon showing of good cause, the court may issue a "protective order," effective for up to one year, to a complainant who is related to the respondent by blood, legal custody, marriage, having a child in common, or with whom the complainant has shared a mutual residence within the last year. The order can direct one of the parties to refrain from committing certain conduct or threatened conduct, to avoid the presence of the other person, to move out of the dwelling of the person filing the complaint or give up the possession of certain personal property. The order can also award temporary custody of minor children.

All reports of child abuse or neglect are investigated by the police or the Child Protective Services Division of the Department of Human Services. The District Attorney may also file a complaint alleging neglect. If a child is found to be neglected, the court may permit the child to remain with the parent, guardian, or custodian or may transfer custody to a relative or other individual or to a public or private agency.

**2. MARYLAND.** Spouse/family abuse consists of any one of the following acts between household members:

- an act that causes serious bodily harm;
- an act that places another in fear of imminent serious bodily harm;
- sexual abuse of a child.

When evidence of spouse/family abuse exists, a petition for restraint may be filed in either the District or Circuit Court which may then order an offender to refrain from abuse of a household member, and/or to vacate the family home for up to 7 days. The court may also award temporary custody of a minor to another or order that all family members participate in a professional counseling program. Each county has a Social Services Department that administers programs to assist battered spouses and children. In addition, many counties and communities have shelters for the temporary lodging of abused family members (e.g., the House of Ruth for battered women in Anne Arundel County).

**3. VIRGINIA.** The Department of Welfare administers funds for community groups to establish service programs for victims of spouse abuse, maintains a list of available resources, provides a clearing house for informal exchange, and provides technical assistance to establish service programs.

Each local Department of Welfare is also responsible for investigating reports of child abuse and neglect. Petitions may be filed alleging abuse or neglect. If a child is found to be abused or neglected, the court may permit the child to remain with the

parent, guardian, or custodian, or it may transfer legal custody to a relative, another individual, or to a public or private agency.

#### **D. DIVORCE AND SEPARATION AGREEMENTS**

Divorce is the severing of a marriage relationship through the civil court system. Generally, there are two types of divorce: a complete and final divorce and a divorce "from bed and board." With the first type, when it is final, the legal relationship of marriage which had existed between both parties is abolished, and both parties are free to remarry someone else if they wish. A divorce from bed and board does not completely end the relationship. Neither party is free to remarry but they are free to live separate and apart from each other without interference in their day to day lives by the other party. If you are considering a divorce, you should see a legal assistance attorney or civilian family law attorney to discuss which might be better for your specific situation.

A separation agreement is not a divorce, but rather is a contract between the parties in which each party agrees to do or not to do certain things. A separation agreement is entered into voluntarily; neither party can be forced against his or her will to sign a separation agreement. If a separation agreement is signed, it can be incorporated into a future divorce decree. If one of the parties breaks the agreement, that party has "breached the contract," and the law of contracts must then be used to enforce any remedy which may be available.

##### **1. DISTRICT OF COLUMBIA**

a. RESIDENCY REQUIREMENTS FOR DIVORCE: One party must be a resident of the District of Columbia for at least 6 months before filing for divorce. Members of the armed forces qualify as residents upon physically residing in the District for 6 months before filing for divorce. D.C. Code § 16-902.

b. SUBSTANTIVE REQUIREMENTS FOR DIVORCE: Grounds - no fault on the basis of involuntary separation for 1 year or voluntary separation for 6 months. D.C. Code §16-904.

c. SEPARATION: Court may grant a decree of legal separation from bed and board. D.C. Code § 16-904.

d. TIME REQUIRED BEFORE REMARRIAGE: Must wait until time for filing an appeal has passed (60 days). If an appeal has been entered, must wait until the final result of appeal. D.C. Code § 16-920. Jay v. Jay, 212 A.2d 331 (1965).

e. ALIMONY AND CHILD SUPPORT: The court may order a spouse to pay temporary or permanent alimony and child support and will retain jurisdiction of support issues after the divorce has been granted. There is no requirement for alimony to end upon remarriage of the party receiving alimony. Temporary Alimony and Child Support - D.C. Code § 16-911; Permanent Alimony and Child Support - D.C. Code § 16-912; Continuing Alimony and Child Support - D.C. Code § 16-913.

f. PROPERTY DISTRIBUTION: Equitable distribution of marital property. The court will consider such factors as the duration of the marriage, age, health, occupation, employability, assets, debts, and provisions for custody of minor children. Military retirement pay is treated as marital property under some circumstances. D.C. Code §



16-910.

g. DETERMINATION OF CHILD CUSTODY: Best interests of the child. D.C. Code § 16-914.

## **2. MARYLAND**

a. RESIDENCY REQUIREMENTS FOR DIVORCE: If grounds for divorce occurred outside of the state, then one party must have resided in the state for 1 year prior to filing for divorce. For divorces where the grounds occurred within the state of Maryland, one party must be a "bona fide" resident when the complaint is filed. It is difficult to establish residency if you have been in Maryland for less than one year. MD. Ann. Code § 7-101.

b. SUBSTANTIVE REQUIREMENTS FOR DIVORCE:

(1) Limited Divorce (does not allow remarriage): Cruelty to complaining party or minor child, excessively vicious conduct, desertion, or voluntary separation if living apart with no reasonable hope of reconciliation. MD. Ann. Code § 7-102.

(2) Absolute Divorce (does allow remarriage): Adultery, desertion for 12 months, voluntary separation for 12 months, involuntary separation for 24 months, felony conviction with a sentence of at least 3 years (and at least 12 months already served), and insanity with institutional confinement of at least three years. MD. Ann. Code § 7-103.

c. SEPARATION: Court may grant a limited divorce, or divorce from bed and board. MD. Ann. Code § 7-102.

d. TIME REQUIRED BEFORE REMARRIAGE: No waiting period.

e. ALIMONY AND CHILD SUPPORT: The court may order a spouse to pay temporary or permanent alimony and child support. Alimony must end on the remarriage of the party receiving it or upon the death of either party. MD. Ann. Code § 1-201.

f. PROPERTY DISTRIBUTION: Equitable distribution of marital property. The court will consider such factors as the duration of the marriage, age, health, occupation, employability, assets, debts, and provisions for custody of minor children. Military retirement pay is treated as marital property. MD. Ann. Code §8-203; Retirement Pay - MD. Ann. Code §8-204.

g. DETERMINATION OF CHILD CUSTODY: Best interests of the child. MD. Ann. Code §1-201; Denial of Custody or Visitation Rights where Sexual Abuse - MD. Ann. Code §9-101; Grandparent Visitation Rights - MD. Ann. Code §9-102.

## **3. VIRGINIA**

a. RESIDENCY REQUIREMENTS FOR DIVORCE: One party must be a resident of the state and actually be domiciled in the state for at least 6 months before filing for divorce. Military members and spouses are considered to meet this requirement if the military member has lived in Virginia for 6 months before filing for divorce. VA. Code § 20-97.

b. SUBSTANTIVE REQUIREMENTS FOR DIVORCE: Grounds - separation for 1 year with no cohabitation, or separation for 6 months with no cohabitation if the parties have entered into a signed separation agreement and there are no minor children of the marriage. Other grounds for divorce are adultery, cruelty, willful desertion or abandon-

ment, conviction of a felony, and confinement for more than one year after marriage. VA. Code § 20-91.

c. SEPARATION: Court may grant a decree of divorce from bed and board. VA. Code § 20-95.

d. TIME REQUIRED BEFORE REMARRIAGE: No waiting period unless an appeal has been filed. Then must wait until the final result of appeal. VA. Code § 20-118.

e. ALIMONY AND CHILD SUPPORT: The court may order a spouse to pay temporary or permanent alimony and child support. Temporary Spousal and Child Support Pending Suit for Divorce - VA. Code § 20-103; Alimony and Spousal Support upon Decree of Divorce - VA. Code § 20-107.1; Child Support and Custody Order upon Decree of Divorce - VA. Code § 20-107.2. Maintenance and Support for Spouse shall cease on Remarriage - VA. Code § 20-110. Determination of Child or Spousal Support Factors to Consider - VA. Code § 20-108.1.

f. PROPERTY DISTRIBUTION: Equitable distribution of marital property. Military retirement pay is treated as marital property. VA. Code § 20-107.3.

g. DETERMINATION OF CHILD CUSTODY: Best interests of the child. VA. Code § 20-124.3 - Best Interests of the Child; Joint and Physical Custody as Court deems to be in the best interests of Child - VA. Code § 20-124.1; § 20-124.2. Temporary Custody Order Pending Suit for Divorce - VA. Code § 20-103.

### **SECTION III. PROPERTY (LANDLORD\TENANT)**

#### **A. MILITARY CLAUSES IN LEASES**

The SSCRA contains a provision that allows a servicemember to terminate a lease covering premises occupied for dwelling, professional, business, agricultural, or similar purposes if the lease was executed by the servicemember prior to entering the service and if the leased premises were occupied for the above purposes by the member or family members. Since this provision does not apply to property rented after entering active duty, it is especially important for the servicemember to be protected against the possibility of military orders removing him or her from the area prior to the expiration of the lease. A lease should contain a provision permitting the servicemember to terminate the lease upon thirty days notice if he or she receives orders to depart permanently from the area where the premises are located, or if the servicemember is discharged, retired, or is required to move into government quarters.

#### **B. RENTAL PROPERTY REGULATIONS**

**1. DISTRICT OF COLUMBIA.** The District of Columbia has enacted rent control legislation which authorizes the Rental Housing Commission to stabilize and regulate rents. Inquiries may be directed to the D.C. Rent Commissioner, 618 H Street, N.W., Room 505, Washington, D.C. 20001. The telephone number is (202) 727-7400. D.C. Code § 42-3502.02, et seq.

Security deposits may not exceed one month's rent. The owner must return the deposit and any interest due on the deposit to the tenant without demand within 45 days after the termination of the tenancy. If the owner withholds a portion of the security deposit to defray the cost of expenses incurred under the terms of the security deposit agreement, the owner must refund the balance of the deposit, including interest, to the tenant. The landlord must notify the tenant of his or her intent to withhold the deposit within 45 days. D.C. Code § 42-3502.17.

When real estate is leased for a certain term, no notice to quit is necessary, and the landlord is entitled to possession without notice immediately upon the expiration of the term. However, a tenancy from month to month may be terminated by a thirty-day notice to quit, in writing, from either party to the lease. A tenant who refuses to surrender possession of the property after receiving proper notice is liable for double the rent. D.C. Code §§ 1401 and 1402.

**2. MARYLAND.** Security deposits may not exceed 2 months' rent, and the landlord must provide the tenant with a receipt. When a security deposit is required, the tenant may request, and is entitled to receive, a list of damages from the landlord within 30 days of ending occupancy. Security deposits must be maintained in an interest-bearing account (minimum of 4%) and returned to the tenant within 45 days of the end of the tenancy less any amount withheld for damages. A security deposit may be withheld for unpaid rent, damage to the premises, or damages stemming from a breach of lease. If a landlord wrongfully withholds a security deposit, the tenant may recover an amount equal to triple the original deposit as damages plus attorney fees. MD. Ann. Code §8-203.

**3. VIRGINIA.** The Virginia Residential Landlord and Tenant Act will generally apply to units in larger apartment complexes and other residential rental property owned by a business entity. The Virginia Act does not apply to occupancy of single family-residences owned by individuals who own and rent no more than ten such residences or who own and rent no more than four condominiums (unless the lease contains a provision incorporating the Virginia Act). Virginia Residential Landlord and Tenant Act, VA. Code § 55-248.5:10.

Where the Virginia Act applies, security deposits cannot exceed two months' rent. Within 30 days of termination of the lease, the landlord must return the full security deposit (with interest accrued every six months at a rate equal to the Federal Reserve Board discount rate as of January 1 of each year if the property was rented for more than thirteen months), or provide a written explanation of why any portion is withheld. Failure to do this will entitle the tenant to sue the landlord to recover the security deposit, any actual damages, and reasonable attorney's fees. Virginia Residential Landlord and Tenant Act, VA. Code § 55-248.11.

A statutory military clause is in effect in Virginia. It allows a landlord to charge liquidated damages of up to one month's rent if the tenant has completed less than six months of the tenancy or one-half month's rent when the tenant has completed at least

six but less than twelve months of the tenancy. The landlord and tenant are free to contract for a lower liquidated damages amount. In effect, the statutory military clause sets a ceiling but no floor of liquidated damages. The provisions of the statutory military clause may not be waived or weakened by the terms of the lease. Virginia Residential Landlord and Tenant Act, VA. Code § 55-248.21. The statutory military clause applies to most residential rentals including single-family residences otherwise excepted from the Virginia Act.

## **SECTION IV. TAXES**

### **A. RESIDENCE VS. DOMICILE**

Before you can determine what income and personal property taxes are properly assessable to you and members of your family, you must understand the distinction between the terms "residence" and "domicile" and the protections that may be afforded by the SSCRA.

Under the SSCRA, only your state of domicile has the right to tax your military pay and your personal property when you are absent in compliance with military orders. Furthermore, the SSCRA requires all states to recognize your automobile registration, if issued by your state of domicile. Take note, however, the SSCRA in this area applies only to you and not to members of your family.

Residence is generally defined as "a factual place of abode at a particular time" or "that place where a servicemember is currently living; that is, his temporary home under military orders." However, a great deal of confusion exists in defining this term because various state laws define the words "residence" or "resident" differently. As you will see, the definition of "resident" in the tax laws of the District of Columbia, Maryland, and Virginia differs from the one above. Whenever a word is specifically defined in a particular statute, that definition is, of course, controlling.

Domicile (legal residence) may be defined in legal terms as "that place where a person has his true, fixed, permanent home and principal establishment, and to which, whenever he is absent therefrom, he has the intention of returning." To understand the issue of domicile, you must first understand that there are two types generally applicable to the military and family members, namely: (1) domicile of origin or birth, and (2) domicile of choice. It is legally impossible not to have a domicile, and an old domicile is not lost until a new one is acquired.

Domicile of origin is the domicile automatically acquired by every child at birth and is identical with the domicile of the parents. The actual place of birth does not determine domicile of origin. For example, a child born to American parents while stationed in Virginia does not necessarily become a domiciliary of Virginia. If, at the time of the child's birth, the military parent was domiciled in Colorado, the child also becomes a domiciliary of Colorado.

Domicile of choice is the place which a person has voluntarily elected and chosen to replace the previous domicile. To change your domicile, there must be a simultaneous occurrence of these elements: (1) actual residence (bodily presence in the new locality); (2) an intention to remain there permanently or indefinitely; and (3) an intention to abandon the old domicile.

Once the above elements have occurred simultaneously, you have changed your domicile. However, proving the requisite intent, particularly if the change of domicile gives you a tax advantage, may be difficult. In this event, your word, though considered, will not necessarily satisfy taxing authorities. They may properly demand evidence of some overt acts on your part indicative of the requisite intent. In short, your actions speak louder than your words. One of the clearest indications that you consider a state to be your domicile is by registering to vote and voting there. For this reason, **you are cautioned NOT to register to vote or vote in a state that is not your state of domicile unless you intend to abandon your old domicile and establish that state as your new domicile.**

Some servicemembers are tempted to change their domicile in order to avoid the income tax of a particular state. Before doing so, you should remember that domicile not only determines your liability for income and personal property taxes, but also may affect the following important rights and duties:

1. Liability for state inheritances taxes;
2. The location where your will would be probated; and who may act as executor and testamentary guardian of your minor children;
3. The right to vote;
4. Bonuses for wartime service;
5. The right to hold public office;
6. The right to homestead, veteran's claims, or tax exemptions;
7. Whether you or your children may attend a State University without paying higher fees required of nondomiciliary residents;
8. Where you may obtain a divorce.

In short, before attempting to change your domicile, take a good long look at the overall picture and discuss the matter with your legal assistance attorney or local civilian attorney.

## **B. TAXATION OF FAMILY MEMBERS**

The tax protection afforded by the SSCRA does **NOT** apply to spouses and dependents of servicemembers unless they are also in the service. The income and personal property of civilian spouses and dependents can be taxed by the state in which they are temporarily residing as well as by their state of domicile and the state where the income is derived.

### **C. REAL PROPERTY TAXES**

The tax protection of the SSCRA does **NOT** apply to real property. If you buy a house or land (real property), whether in your home state or elsewhere, you will have to pay all taxes assessed against it by the jurisdiction in which the property is located.

### **D. INCOME TAX LAWS OF VIRGINIA, MARYLAND, AND THE DISTRICT OF COLUMBIA**

Legal residents of Virginia, Maryland, and the District of Columbia are taxed on their entire income from all sources. Nonresidents of Virginia and Maryland can be taxed on nonmilitary wages earned in those jurisdictions unless they qualify under the special provisions described below. Each of these jurisdictions has provisions for withholding tax, filing a declaration of estimated taxes, and making quarterly payments of such taxes.

The following are brief definitions of the term "resident" for income tax purposes in the three local taxing jurisdictions. If literally applied, they would include nondomiciliary servicemembers. The SSCRA, however, provides that servicemembers are not deemed to become local residents (for tax purposes) while absent from their state of legal residence or domicile solely by reason of compliance with military orders. Thus, the following definitions of "resident" are of significance primarily for spouses and civilian dependents and for servicemembers whose domicile is in one of these jurisdictions.

**1. DISTRICT OF COLUMBIA.** The word resident means "every individual domiciled within the District at any time during the taxable year, and every other individual who maintains a place of abode within the District for 183 days or more during the taxable year, whether domiciled in the District or not..." D.C. Code § 47-1801.4.

Spouses and dependents are taxable residents if they qualify under the above definition. Military personnel and dependents who are not certain as to their liability for payment of D.C. income tax may obtain a ruling by submitting completed Form D-40B, D.C. Non-Resident Request for Ruling.

**2. MARYLAND.** "Resident means an individual domiciled in this State on the last day of the taxable year, and every other individual who, for more than six months of the taxable year, maintained a place of abode within this State, whether domiciled in this State or not..." It should be noted that **registration to vote in Maryland establishes residence for tax purposes.** MD. Ann. Code § 10-101.

Spouses and dependents of members of the Armed Forces become taxable as residents if they meet the "six month" residency test. They are liable for filing a resident Maryland income tax return, but the spouse can claim the servicemember's personal exemption. They are also taxable if living in Maryland for less than six months if they work in or have income from Maryland sources. MD. Ann. Code §10-101 and 201.

**3. VIRGINIA.** "Resident ... includes, for the purpose of determining liability to the taxes ... every person who was domiciled in Virginia at any time during the taxable year

and every other person who, for an aggregate of more than 183 days of the taxable year, maintained his or her place of abode within Virginia, whether domiciled in Virginia or not." VA. Code § 58.1-302.

The spouse of a member of the armed services who meets the residence test will be classified as a resident for Virginia income tax purposes and may claim his or her own exemptions, deductions, and those dependents claimed on the Federal return. VA. Code § 58.1-302.

**4. Income Tax Filing Dates:** The due dates for filing state income tax returns are 15 April in Maryland and the District of Columbia, and 1 May in Virginia.

#### **E. EXEMPTIONS FOR DEPENDENT CHILDREN (STUDENTS)**

Federal tax laws permit a parent to claim as a dependent any child under age 24 who is a full time student, regardless of the amount of income the child may have, provided the parent contributed more than one-half of the child's total support, the child is a member of the parent's household, is a citizen, and did not file their own return. D.C. Code § 47-101.4(19). To qualify as a student, the child must have been, during some part of five calendar months of the year (not necessarily consecutive), a full-time student at an educational institution which maintains a regular faculty and curriculum, or was otherwise engaged in an acceptable training program.

For state income tax purposes, Virginia, Maryland, and the District of Columbia adopt the Federal rule. D.C. Code § 47-1801.4; MD. Ann. Code § 10-211; VA Code § 58.1-301.

#### **F. PERSONAL PROPERTY TAX LAWS OF VIRGINIA, MARYLAND, AND THE DISTRICT OF COLUMBIA**

Personal property tax is a tax on the value of the property which is imposed periodically, but at least annually. Virginia permits these taxes on a number of types of tangible personal property such as farm animals and machinery, motor vehicles, aircraft, and watercraft. However, these items are taxed at the local level, rather than at the state level, and many local jurisdictions tax only motor vehicles. VA. Code § 58.1-100.

Maryland does not have a personal property tax. The District of Columbia does not tax tangible personal property unless used in a trade or business.

The SSCRA protects service members by providing that personal property is deemed to be located in the domiciliary state of the servicemember. Thus, only that state can tax the personal property. The SSCRA does **NOT** relieve dependents from paying tax on personal property. **Thus, in Virginia, if taxable personal property (such as an automobile) is owned jointly by a military member and a non-military spouse, the property will be taxed.** Most local jurisdictions treat a joint interest as an interest in the whole, thereby subjecting the entire property to taxation.

## **G. TAX EXEMPTION PROCEDURES**

If you have a place of abode within Virginia, Maryland, or the District of Columbia, the taxing authorities will presume that you are subject to their taxes. When you claim an exemption, the burden is on you to prove that you are entitled to it and that you are absent from your state of domicile solely by reason of compliance with military orders.

It is in your interest to ensure that essential information for this purpose is furnished promptly. If you are asked to submit tax returns on income or personal property or to submit proof that you are exempt, do not ignore the communication. Failure to reply may result in an arbitrary assessment or a summons to appear and explain why you have not filed a return. Forms for claiming exemptions are distributed by many of the local taxing jurisdictions.

## **SECTION V. MOTOR VEHICLES**

### **A. DISTRICT OF COLUMBIA**

1. **REGISTRATION.** Unless subject to an exemption, all motor vehicles operated in the District of Columbia must be registered in the District. Non-residents of D.C. who have complied with the laws of any state of the United States, or of a foreign country, have a 30-day grace period. After this grace period has expired, an owner must either register the vehicle in D.C., or obtain a reciprocity permit which indicates the vehicle is properly registered in the state of domicile. Non-resident servicemembers are exempt from the normal reciprocity procedures and may obtain a reciprocity permit from year to year for a \$5.00 fee. This permit may be obtained from Motor Vehicle Services, 301 C Street, N.W., Room 1063, telephone: (202) 727-2487, or from its branch office at 1616 H Street, N.E. Servicemembers must bring a copy of orders, proof of residence in another state, and valid motor vehicle documentation. D.C. Code § 50-1401.2.

2. **DRIVER'S LICENSE.** Anyone at least 16 years of age may obtain a 60-day learner's permit. An unrestricted driver's permit may be obtained by anyone at least 16 years of age who has complied with D.C. licensing regulations. D.C. driver's permits are not required for those who are entitled to reciprocity permits. D.C. Code § 50-1401.1.

3. **TITLE REQUIREMENTS.** If an individual desires to register a vehicle in the District of Columbia, there is an excise tax of 6 to 7 per cent of the vehicle value assessed only if the vehicle is purchased by the servicemember after coming into and establishing or maintaining a residence in the District of Columbia. D.C. Code § 40-703.

4. **INSURANCE.** Owners of motor vehicles required to be registered in D.C., or for which reciprocity permits are required, must maintain adequate insurance on those vehicles. Drivers are required to carry property damage insurance of at least \$10,000 per accident; third-party personal liability coverage of at least \$25,000 per person injured in any one accident; and \$50,000 for all persons injured in any one accident. Insurers are required to offer underinsured motorist protection and personal injury protection insurance. D.C. Code §§ 31-2404 and 2406.

5. **INSPECTIONS.** An annual safety inspection is required for all motor vehicles registered in D.C. There is a \$300.00 penalty for using a vehicle whose registration has



been revoked for failure of a safety inspection. D.C. Code §§ 50-1101 and 1106.

6. ACCIDENT REPORTS. Accidents involving injury to any person, death, or substantial property damage must be reported to the police at once, and to the Bureau of Motor Vehicles within 5 days. Garages and repair shops in D.C. are required to report to the police, within 24 hours, any motor vehicle which shows evidence of having been involved in an accident or struck by bullets. D.C. Code § 50.2201.06.

7. MOTOR VEHICLE REPAIRS. An estimate is required before work is performed. Final costs must be within \$20.00 if the repairs are under \$300.00, and within 10% if over \$300.00. An invoice and disclosure of customer rights are required. Subcontracting is not allowed. Mechanics and garages must be licensed. D.C. Municipal Regulations 6, Ch. 6, § 633.

8. CHILD RESTRAINT. Children less than 3 years of age must be properly restrained in a child restraint seat. Simply buckling up your child under the age of three in the vehicle's standard restraints is not sufficient, unless the child will not fit in a child restraint seat. Children between the ages of 3 and 6 must be restrained in a child restraint seat or a safety belt. D.C. Code § 50-1703.

9. MANDATORY SEAT BELTS. The driver and all passengers are required to wear a properly adjusted and fastened safety belt. There is an exemption for motor vehicles manufactured before July 1, 1966. Violation of this rule is a civil infraction subject to a fine of \$15.00. D.C. Code § 50-1806.

10. LEMON LAW. If a new vehicle does not conform to all warranties in the first 18,000 miles of operation or during the period of two years following the date of delivery of the vehicle to the original purchaser, whichever is earlier, and the failure is reported to the manufacturer or its agent, the problem must be corrected without charge. The problem must significantly impair the use or value of the vehicle.

The consumer can elect to exchange the vehicle or receive a full refund:

- a. if the same non-safety-related problem has been subject to repair four or more times;
- b. if the same safety-related problem has been subject to repair one or more times; or
- c. if the repairs keep the vehicle out of service for 30 cumulative days during the warranty period.

A "safety-related defect" is one that reduces the ability to control the vehicle, or causes a risk of fire, explosion, or other life-threatening malfunctions.

The consumer must seek claims arbitration prior to filing suit. Subsequent purchasers of a vehicle returned under these provisions must be informed of that fact D.C. Code § 50-502, et seq.

## **B. MARYLAND**

1. REGISTRATION. Non-resident servicemembers stationed in Maryland need not register their personal passenger vehicles if the vehicles are registered in the servicemember's state of residence. MD. Ann. Code § 13-402.

2. DRIVER'S LICENSE. All drivers on Maryland roads must have a valid driver's license, either from Maryland or their state of residence. Servicemembers and their family members returning from overseas may drive on an Armed Forces license for 30 days after return to the U.S. MD. Ann. Code § 16-102.

Certain restrictions apply to minors obtaining a Maryland driver's license. Minors between the ages of 16 and 18 may be issued a "provisional driver's license" for 12 months; a parent may be required to co-sign the application for this license. With this license, driving is not allowed between 1:00 a.m. and 6:00 a.m. unless the driver is accompanied by a licensed driver at least 21 years of age. Completion of a driver's education course is required before a minor may receive a permanent license. A minor's license may be suspended on request of the license co-signer. MD. Ann. Code §§ 16-103 and 107.

3. TITLE AND SALE REQUIREMENTS. Certificates of title are not required for non-resident servicemembers' vehicles. Non-resident servicemembers may register vehicles in Maryland after paying an excise tax. The tax is either 5% of a new vehicle price or \$100.00, whichever is greater. The tax on used vehicles is 5% of the "blue book" price. Transfers between certain relatives, not involving money, are tax exempt. MD. Ann. Code § 13-102 and MD. Ann. Code § 13-809.

4. INSURANCE. Owners of vehicles registered in Maryland must have vehicle liability insurance with minimum limits of \$20,000 for death or bodily injury to one person; \$40,000 for two or more persons; and \$15,000 for property damage. Failure to carry the minimum coverage is a misdemeanor. Motorists who are unable to purchase private insurance may apply for coverage from the Maryland Auto Insurance Fund (MAIF). MD. Ann. Code §§ 17-103 and 104.

5. INSPECTIONS. No regular inspection is required, but a used car must be inspected within 30 days prior to its sale if the car is to be registered in Maryland. No inspection is required if the transfer is between spouses, or between parents and children. MD. ANN. CODE §§ 23-101, 106 and 107.

6. ACCIDENT REPORTS. A written accident report must be made to the Motor Vehicle Administration immediately when an accident caused bodily injury or property damage. MD. ANN. CODE § 20-104.

7. MOTOR VEHICLE REPAIRS. Before work is begun on repairs expected to cost more than \$50.00, the repairer must provide the owner with a written estimate. The ultimate cost may not exceed 10% of the estimate. A repair facility may not charge for work not authorized by the customer. Any parts removed must be returned to the customer unless returned to the manufacturer under a warranty. MD. Ann. Code §§ 14-1001 to 1009.

8. CHILD RESTRAINTS. A child under the age of four or weighing less than forty pounds is required to be seated in a safety seat or child restraint that is manufactured in accordance with the 1981 Federal Motor Vehicle Safety Standards. Simply buckling up your child under the age of four in the vehicle's standard restraints is not sufficient.

A child weighing at least forty pounds, or a child between four and ten years of age may use a child safety seat or a properly fastened seat belt.

A fine of \$25.00 may be imposed for a violation of this law. MD. ANN. CODE § 22-412.2.

9. MANDATORY SEAT BELT USE. A person may not operate a motor vehicle unless that person and each front seat passenger are restrained by a seat belt (or child safety device, as appropriate; see preceding section). MD. ANN. CODE § 22-412.3.

10. LEMON LAW. If a vehicle purchased after July 1, 1984, fails to conform to all applicable warranties during the first 15 months or 15,000 miles, and the failure is reported to the manufacturer or agent (dealer/seller), the problem must be corrected without charge. The problem, however, must be one that substantially impairs the use or value of the vehicle.

The consumer may elect to either exchange the vehicle or receive a full refund in three cases:

- a. if the manufacturer or agent attempts to repair the same problem four or more times during the warranty period;
- b. if repairs keep the vehicle out of service for 30 cumulative days during the warranty period; or
- c. if a problem in the braking or steering system has not been successfully repaired during the warranty period.

Any agreement to limit these consumer rights is void. The rights must be enforced within three years, and the consumer must first utilize informal dispute resolution methods before filing suit. Subsequent purchasers of a vehicle returned under the above-noted provisions must receive notice of this fact. MD. Ann. Code §14-1501, et seq.

## **C. VIRGINIA**

1. REGISTRATION AND COMMUNITY STICKERS. If living in Virginia, military members must obtain a decal bearing their city or county information. Registration must occur within 6 months of arrival, regardless of their state of legal residence. VA. Code §§ 46.2-655 to 657.

Many cities and counties in Virginia require vehicles to be registered annually with local city or county governments and to display a city or county decal. This requirement applies to vehicles garaged within the city or county, whether bearing Virginia license plates or license plates from another state. These city and county jurisdictions may couple this registration requirement with the assessment of an annual personal property tax on the vehicle. Servicemembers who are exempt from paying personal property taxes on their solely-owned vehicles in Virginia (by virtue of having their legal residence or domicile outside of Virginia) nevertheless must register those vehicles if the city or county in which the vehicles are garaged so require. In those cases, servicemembers can satisfy the requirement and obtain the city or county sticker, either free or for a

nominal processing fee, by visiting the appropriate local government office and displaying their military identification card and current state vehicle registration. **Failure to register your vehicle and display the sticker is not recommended - police routinely set up roadblocks to check for missing or expired stickers, and you will be issued a ticket and fined if your car is not in compliance with the law.** The tags/windshield stickers are renewable each year between 15 March and 15 April.

a. *City of Alexandria.* A windshield sticker must be obtained within 10 days upon moving into Alexandria. It is issued for \$1.00 to military personnel whose vehicles are registered in their names *alone* and who are not legal residents of Virginia. A fee of \$25.00 per year is charged for vehicles registered jointly with a spouse, for vehicles registered to a nonmilitary nonresident, or for vehicles registered to a legal resident of Virginia. Sticker fees are prorated for those who enter the state after 30 June or who buy their vehicle after 30 June. Stickers for service personnel may be obtained from the City Hall, Room 1410, 301 King Street, Alexandria (telephone 703-838-4560). To secure the sticker, military personnel are required to present their certificate of registration and military identification card.

b. *City of Falls Church.* A windshield sticker must be obtained within 30 days after moving into Falls Church. It is issued for a service charge of \$1.25 provided that the automobile is registered in *your name alone*. If your automobile is registered jointly with a nonmilitary spouse, the normal fee of \$25.00 per year must be paid. The sticker may be obtained at the Commissioner of the Revenue, City Hall, 300 Park Avenue, Falls Church (telephone 703-248-5065).

c. *Arlington County.* A windshield sticker must be obtained within 30 days after moving into Arlington County for vehicles registered out of state. (Virginia vehicles must obtain a sticker immediately.) There is no fee for vehicles registered in the names of service personnel who are not legal residents of Virginia. For vehicles registered jointly or in the name of someone other than the service member, there is a one time \$5.00 charge. Military members may obtain their stickers at the Fort Myers Welcome Center. All others must go to the Commissioner of Revenue, Room 218, 2100 Clarendon Blvd., Arlington, Virginia (telephone 703-228-3135).

d. *Fairfax County.* If you reside outside of the City of Fairfax, but in Fairfax County, and your car is registered *solely* in your name in your state of legal residence (other than Virginia), then you have 30 days to obtain a free sticker for your vehicle. If the car in question is jointly registered with a nonmilitary spouse, or registered in some nonservicemember's name, then the sticker will cost \$20 to \$25, depending on the weight of the vehicle. Stickers may be obtained at Government Center, Suite 223, 12000 Government Center Parkway, Fairfax, Virginia (telephone 703-222-8234).

e. *City of Fairfax.* A windshield sticker should be obtained within 30 days upon moving into the City of Fairfax. It may be obtained at the City Hall, Room 210, 10455 Armstrong Street, Fairfax, Virginia (telephone 703-385-2880). There is no fee for stickers issued for cars registered solely in the names of nonresident servicemembers. All others must pay \$20 to \$25 depending upon the weight of their vehicle.

f. *Town of Vienna.* A town tag must be obtained within 30 days upon moving into the town of Vienna. It may be obtained at the Department of Finance, Town Hall, 127 Center Street South, Vienna (telephone 703-255-6323). There is a \$1.25 fee for tags

issued for cars registered only in the name of a nonresident service member. The standard fee is \$20 to \$25 per year, depending upon vehicle weight.

2. DRIVER'S LICENSE. Servicemembers and non-resident dependents may drive a motor vehicle in Virginia with a valid license from their home state, even if they register a motor vehicle in Virginia. Minor dependents who work must get a Virginia driver's license and must complete a Virginia driver's education course, which is offered in all high schools. Any civilian who is employed in Virginia must get a Virginia driver's license within thirty days of the date of employment. VA. Code §§ 46.2-306, 307 and 308, and 46.2-334.

3. TITLE AND SALE REQUIREMENTS. Motor vehicle titles are issued by the Virginia Department of Motor Vehicles (DMV). Virginia law requires the correct mileage of a vehicle to be certified on the title when it is transferred. In most cases, unless a sales/use tax has been paid on the vehicle at the time of its purchase and proof of payment is provided, the DMV will collect this tax at the time of registration. VA. Code § 46.2-616, et seq.

4. INSURANCE. Proof of liability insurance is required to register a vehicle in Virginia. The minimum insurance required is \$25,000 for death or bodily injury to one person; \$50,000 for death or bodily injury to two or more persons; and \$20,000 for property damage. An uninsured motor vehicle can be registered in the state for an annual fee of \$400.00. This fee is paid to the state and **does not provide any insurance protection**. VA. Code § 46.2-472 and .2-706.

5. INSPECTIONS. An annual inspection is required for all vehicles licensed in Virginia. A vehicle which does not pass inspection will be issued a rejection sticker allowing 15 days for repair. There is a penalty of up to \$100.00 per day for each day a vehicle is operated without passing inspection. VA. Code § 46.2-1158.

6. ACCIDENT REPORTS. Accidents must be reported to the police or the DMV immediately if there is any property damage or personal injury involved. A driver's license and vehicle registration may be revoked for failure to file the appropriate accident forms. VA. Code § 46.2-371 and 372.

7. MOTOR VEHICLE REPAIRS. An estimate for repairs is required for damage over \$25.00. VA. Code §59.1-207.2 et seq.

8. CHILD RESTRAINT. Children under 4 years of age must be properly restrained with a child restraint device approved by the U.S. Department of Transportation. Those who are not financially unable to provide a child restraint device may apply to the DMV to borrow a child restraint device for as long as the child requires it. Failure to properly secure a child under 4 years of age will result in a civil penalty of \$25.00. A medical exemption may be granted by the DMV in certain circumstances. VA. Code §§ 46.2-1095 and 1096.

9. MANDATORY SEAT BELTS. The driver and front seat passengers are required to wear a properly fastened safety belt. There is an exemption for motor vehicles manufactured before 1963. A citation will not be issued for a violation of this law unless the vehicle is stopped for another reason. Violators are subject to a civil penalty of \$25.00. VA. Code §§ 46.2-1092 to 1094.

10. LEMON LAW. The Motor Vehicle Warranty Enforcement Act provides a method for consumers to get either a new vehicle or their money back when a new vehicle cannot be "brought into conformity with the express warranty issued by the manufactur-

er." The manufacturer gets a chance to repair a "lemon," but the vehicle is presumed to be a lemon if, within 18 months of delivery, it is taken to the dealer to be fixed for the same problem three or more times (only once if a serious safety defect exists), or if it is in the shop for repairs for 30 days or more in a year. This law applies not only to the original purchaser, but to others who buy the car while it is still under warranty. A manufacturer must be given written notice of the defect and any legal action brought under the law must be started within 18 months of original delivery. VA. Code § 59.1-207.9 et seq.

#### **D. MOTORCYCLE SAFETY HELMETS**

1. STATE LAWS. The District of Columbia, Maryland, and Virginia all require motorcycle operators to wear some form of headgear. In Maryland, a minor may not operate or ride on a motorcycle unless the minor is wearing protective headgear approved by the state. The operator of a motorcycle must wear eye protection or have his or her motorcycle equipped with a wind screen. In Virginia, every person operating a motorcycle must wear a face shield, safety glasses/goggles, or have his/her motorcycle equipped with safety glass or a windshield. Operators and passengers must wear protective helmets unless they are riding on motorcycles with wheels of eight inches or less in diameter, or on three-wheeled motorcycles which have non-removable roofs, wind shields and enclosed bodies. MD. Ann. Code § 21-1306; VA. Code § 46.2-909.

2. MILITARY INSTALLATIONS. Usually, military installations have traffic safety programs that apply to persons who drive on that installation, and typically those programs include a requirement to wear a motorcycle safety helmet. Check with your installation's provost marshal or base safety office for more information.

The Navy has a world-wide Navy Traffic Safety Program, OPNAVINST 5100.12F, that applies to all Navy personnel at all times, whether on or off a Navy installation. The instruction contains regulations affecting motor vehicle operators, passengers, and pedestrians. This instruction requires each motorcycle operator to successfully complete the Motorcycle Safety Foundation's Motorcycle Rider Course - Riding and Street Skills, or other training approved by the Naval Safety Center. The instruction requires use of a "properly fastened (under the chin) protective helmet that meets U.S. Department of Transportation standards;" the operator is also required to wear eye protection and hard-soled shoes with heels. The instruction further recommends that a minimum of four square inches of retro-reflective material be attached to the back and each side of the helmet.

### **SECTION VI. TRAFFIC LAWS**

#### **INTRODUCTION**

A license to operate a motor vehicle on a public highway is a privilege granted by states and is not a guaranteed right. Persons whose driving records indicate they are a hazard to themselves or others will be subject to official suspension or revocation of their operator's license. The District of Columbia, Maryland, and Virginia will suspend or revoke driving privileges automatically upon conviction of certain offenses. For

example, in Virginia a conviction of reckless driving may result in the loss of your operator's license for a specified period of time. Two or more convictions of moving violations within a 12 month period may also result in revocation of driving privileges. In all three jurisdictions, a point system has been established whereby your driving privileges will be automatically suspended after an accumulation of a certain number of traffic violation points. There is also a reciprocal agreement among all three jurisdictions honoring any traffic citations, including parking tickets.

Most states keep permanent and detailed files of all convictions of motorists within the state. A conviction of a non-resident in one state is usually filed not only in the state where the offense occurred, but also in the motorist's home state, where it becomes a part of the motorist's permanent record.

In D.C., Maryland, and Virginia, the owner or operator of a motor vehicle is liable for injuries to a passenger if the injuries resulted from negligent operation of the vehicle. Negligence is the failure to do what a reasonable and prudent person would ordinarily have done under the circumstances of the situation. Some insurance policies exempt the insurance company from liability if the insured vehicle is used to transport passengers for compensation. Persons involved in carpools should contact their insurance agents to determine if they are adequately protected.

Radar detectors are permitted in Maryland. Virginia and D.C. prohibit their use. VA. Code § 46.2-1079; D.C. Code § 1-319 (by regulation).

## **A. DISTRICT OF COLUMBIA**

1. POINT SYSTEM. A driver's permit will be suspended for 5 to 120 days if 8 or more traffic points are accumulated. A driver is entitled to an administrative hearing prior to any suspension or revocation. The length of suspension or revocation depends upon the nature of the violations and number of points accumulated. Traffic and Motor Vehicle Regulation of D.C. Part V, 3, 874.

2. DRIVING UNDER THE INFLUENCE (DUI) Any person who operates a motor vehicle within the District of Columbia is deemed to consent to two chemical tests of blood, urine, or breath, for the purpose of determining blood-alcohol content or blood-drug content. It is illegal in D.C. to operate a motor vehicle if the ability to do so is impaired by intoxicating liquor or if any of the following three conditions are met:

- a. 0.08 or more by weight of alcohol (blood/breath); or
- b. 0.10 or more, by weight of alcohol (urine); or
- c. under the influence of intoxicating liquor, or any drug or combination thereof.

Those who refuse to submit to chemical testing will have their license revoked for 12 months. D.C. Code §§ 40-716 and 717.1.

## **B. MARYLAND**

1. POINT SYSTEM. A license will be suspended from 2 to 30 days if 8 traffic violation points are accumulated in any 2-year period. A license will be revoked if 12

traffic violation points are accumulated in any 2-year period. MD. Ann. Code §§ 16-401 to 16-407.

2. **DRIVING WHILE INTOXICATED (DWI).** In Maryland, a driver is deemed to consent to a blood or breath alcohol level test if stopped for suspected driving while intoxicated on state roads. Refusal to submit to a test will result in a suspension of driving privileges for up to 120 days for a first offense and one year for subsequent offenses. Alcohol levels and presumptions are:

- a. 0.05 or less - no presumption of intoxication.
- b. 0.05 to 0.07 - no presumption of intoxication, but may be considered along with other evidence.
- c. 0.07 to 0.08 - evidence of driving under the influence of alcohol.
- d. 0.08 and higher - prima facie evidence of intoxication. MD. Ann. Code §16-205.

### **C. VIRGINIA**

1. **POINT SYSTEM.** Virginia assesses demerit points against traffic violators holding Virginia licenses. The number of demerits assessed depends upon the severity of the offense. All moving violations carry a minimum of 3 points and offenses such as reckless driving and speeding 20 MPH over the limit carry 6 points. A license may be suspended if a total of 24 points are accumulated over any 2-year period.

Virginia cannot assess points against those holding out-of-state licenses, but will report traffic violations to the appropriate authorities in their home states. VA. Code § 46.2-492.

#### **2. DRIVING WHILE INTOXICATED OR WHILE IMPAIRED**

In Virginia, a driver on the state highways is deemed to consent to have his or her blood analyzed if charged with driving while intoxicated. Conviction of a first offense for driving while intoxicated will automatically result in revocation of the operator's license for 6 months, in addition to a fine and/or imprisonment. An unreasonable refusal to submit to a blood test may also cause loss of an operator's license for an additional 6 months. A person whose level of intoxication may be insufficient to warrant conviction of driving while intoxicated may be convicted of "driving while impaired." Such a conviction will result in a maximum license suspension of 6 months. Alcohol levels and presumptions are:

- a. 0.05 or less - presumed not to be under the influence of alcohol.
- b. Over 0.05 but less than 0.08 - no presumption of DUI or impairment, but may be considered along with other evidence.
- c. 0.08 or above - conclusive presumption of impairment (automatic violation of law, without regard to other evidence of impairment or lack of impairment). VA. Code § 15.2.



## **SECTION VII. LIABILITY FOR A MINOR, AND MISCELLANEOUS MATTERS**

### **A. LIABILITY FOR ACTS OF A MINOR**

**1. OVERVIEW.** Under Maryland, D.C., and Virginia laws, minor children are liable for damages caused by their negligence. The age of the minor child, however, is taken into consideration as a mitigating factor in determining liability. The rules of negligence are not applied with the same severity to a child as to an adult because of the child's limited ability to exercise judgment. In all three jurisdictions, a child is required to exercise that degree of care which an ordinary child of comparable age, knowledge, and experience would exercise.

Under certain circumstances, both the parent and the child may be liable for the child's negligence. In Maryland and D.C., parents are liable for damages incurred if they permit, encourage, or fail to discourage conduct of minor children which is inherently dangerous to others or prohibited by laws promoting public safety, and such conduct results in injury to the person or property of another. These jurisdictions impose a legal duty on the parent to restrain or control certain conduct of their children. Thus, a parent who permits an infant child to use a dangerous "instrumentality" such as a rifle, and whose use of it causes injury to another's person or property, will be liable.

A parent is also liable where a minor child is negligent in the course of performing business for the parent. In Virginia, this is the sole basis of a parent's liability for their child's negligence; there is no legal duty on the parent to restrain or control the conduct of minor children. However, both Virginia and Maryland impose liability on the parent for the child's willful or malicious destruction, theft, or damage to property. MD. Art. 27 § 640 (restitution for criminal acts); VA. Code §§ 8.01-43 and 44.

The age of majority in Virginia, Maryland, and the District of Columbia is 18. D.C. Code § 30-401; MD. Art. 1, § 24; VA. Code § 1-13-42.

Where negligence is concerned, keep in mind that the law of the place where the injury or damage was incurred determines liability.

**2. MARYLAND.** Parents are held liable for contracts entered into by a minor for the purchase of necessities. MD. Ann. Code § 1-103.

Parental liability for a minor's negligence is discussed in the preceding section. In addition, parents may be held liable for the act(s) of a minor child who steals or damages the property of another or inflicts personal injury on another. This liability, however, may not exceed \$5,000 for damage to property and \$5,000 for medical expenses. The court may also order a child to make restitution and then hold the parent secondarily liable. In any case, this liability may only be imposed by the court, at its discretion, in a juvenile proceeding. There is no independent cause of action. MD. Ann. Code § 3-829.

**3. VIRGINIA.** As noted in section 1 above, parents are not, except under limited business circumstances, liable for the negligent torts of their minor children. However, one or both parents may be liable for damages not exceeding \$750 due to the willful or malicious destruction of property, both public or private, by a minor child.

A minor may be liable for his or her own tort. Generally, the age of the child at the time of a alleged tort is of importance. An infant under the age of seven is conclusively presumed to be incapable of negligence. Between the ages of seven and fourteen, a rebuttable presumption of incapacity exists. Over the age of fourteen, a child is as liable as an adult for his negligence.

Most contracts made by minors can be disaffirmed (repudiated) by the minor, subject to the requirement of making restitution. Statutory exceptions exist, including: VA. Code 8.01-43 and 44.

a. Minors may deposit funds in bank accounts and issue valid checks, orders, or receipts. VA. Code § 6.1-74.

b. A minor 16 years of age or older is liable for repayment of a loan for his college education at specified educational institutions. VA. Code 8.01-278.

## **B. REGULATION OF AND LIABILITY FOR DOGS**

The regulation of dogs is within the police power of the states and the District of Columbia. Every jurisdiction imposes a license tax on the ownership of a dog. Payment of the tax is evidenced by a receipt, and a metallic tag which the dog must wear at all times. Failure to purchase and display the tag subjects the owner to a fine and may result in the dog being impounded.

Dog owners should carefully observe local leash laws since they generally impose fines and strict liability for unleashed dogs.

The familiar adage "every dog is entitled to one bite" is not an entirely accurate statement of the law. The basis for liability for injuries caused by a dog is substantially the same in Virginia, Maryland, and the District of Columbia. The person injured must show that the owner of the dog knew, or in the exercise of reasonable diligence should have known, that his dog had vicious or mischievous propensities. A cross and savage disposition on the part of the dog is not necessary in order to impose liability on its owner for its assault; the owner is equally responsible if he or she knew the dog has a propensity to bite or jump upon a person in play. Further, if a dog is not always dangerous, but is likely to bite under particular circumstances, the owner may be responsible for injury or damage.

It is very important for servicemembers to contact the appropriate local agency in their area to find out the requirements for keeping a dog or other animal.

### **C. HANDGUN LAWS**

Maryland and Virginia statutes state that any person who shall wear, carry, or transport any handgun without a permit, with few exceptions, shall be guilty of a misdemeanor and subject to imprisonment and/or fine. Maryland and Virginia do not require registration of handguns.

The District of Columbia requires registration of firearms. A person must be 21 years of age (if between 18 and 21 years, a parent or guardian's signature is required) and must meet the qualification set forth in the statute. Firearms must be registered before purchase or immediately upon transport into the District. The owner must personally communicate with the Metropolitan Police Department and supply such information as required. Any theft, loss, transfer, or destruction of a registered firearm must be immediately reported in writing to the Chief of Police. Additionally, all States and the Federal Government have statutes affecting the mailing, selling, and use of weapons. Anyone using or purchasing firearms should carefully check local laws. D.C. Code §§ 6-311 to 2324 and 22-3203 to 3206; MD. Art. 27, §§ 36B to 36H; VA. Code § 18.2-308.

### **D. IDENTIFICATION, PROOF OF AGE AND ADDRESS**

Some local businesses require two pieces of identification, at least one of which contains a local address, to negotiate a check (even one drawn on a local bank) or to make a purchase with a national credit card (VISA, MasterCard, etc.). Military and dependent I.D. cards have a photograph but not an address; major credit cards generally do not carry an address; some local credit cards do not bear a photograph or a signature. As a result, persons who do not have a local (Virginia, Maryland, or D.C.) driver's license may occasionally experience difficulty cashing checks or using credit cards.

### **E. TUITION FOR VIRGINIA STATE COLLEGES AND UNIVERSITIES**

The rules are technical, somewhat confusing, and subject to varying interpretation from school to school. The following general discussion does not attempt a full explanation of the subject; questions in this area should be reviewed by a legal assistance attorney.

Generally, the dependent child of a non-domiciliary servicemember may enroll in a state college or university at an in-state tuition rate immediately upon establishing residence (not domicile) in Virginia. This status lasts for one year even if the servicemember remains domiciled in some other state. At the conclusion of the first year, eligibility for in-state tuition will be lost, unless the servicemember has become domiciled in Virginia.

Of course, an emancipated, independent student can qualify for in-state tuition by becoming a Virginia domiciliary, but there is a one-year waiting period built into the statute. VA. Code 23-7.4.

## **SECTION VIII. CONSUMER PROTECTION**

### **A. GENERAL CONSUMER PROTECTION LAWS AND AGENCIES**

Consumer protection laws cover almost all aspects of consumer transactions, including door-to-door sales, extension of credit, collection methods, balloon payments, interest rates, service charges and billing errors, credit card transactions, misleading advertising, warranties and guarantees. For example, specific federal and state statutes provide that unordered merchandise received in the mail may be treated as a gift and the recipient has the right to retain, use or discard such merchandise without obligation to the sender. Similar legislation permits the purchaser of goods from a door-to-door salesman to cancel the transaction without obligation any time within three days. The Federal Truth-In-Lending Law requires complete disclosure of the terms of a credit sale before the transaction is finalized.

The District of Columbia, Maryland, and Virginia have consumer protection laws and agencies charged with enforcing them. A comprehensive listing of all state laws, agencies, and services provided is beyond the scope of this limited guide. Please see the back of this guide for a limited listing of consumer-oriented agencies.

### **B. ARMED FORCES DISCIPLINARY CONTROL BOARD**

The Armed Forces Disciplinary Control Board (AFDCB) is an investigative committee composed of members from each of the services and civilian advisers who seek to protect the interests and welfare of servicemembers when off post.

Some businesses make a practice of preying on servicemembers, especially those new to the military. The AFDCB, working in close cooperation with local law enforcement agencies, civic organizations, and legitimate business establishments, tries to prevent unfair and criminal practices against military personnel.

Those wishing to submit a complaint in writing to the AFDCB should address their complaint to: President of the Armed Forces Disciplinary Control Board, Military District of Washington, Fort Leslie J. McNair, Washington, DC 20319-5050. It is very important that such a complaint be specific (i.e., names, dates, circumstances). Complaints may also be phoned to the Assistant Deputy Chief of Staff for Plans, Training, and Security at (202) 475-0721.

When an individual reports a place of business to the AFDCB for unethical or unsatisfactory practices, it is inspected and, if considered substandard by the AFDCB, it receives a letter of warning advising of the unsatisfactory conditions or practices. The manager is asked to answer the complaint against him or to notify the AFDCB of efforts he has made to correct the conditions. Should the manager fail to respond in writing, the Board requests that he appear at a formal hearing. This hearing will determine whether the Board recommends that an establishment be declared OFF LIMITS. A list of OFF LIMITS establishments is placed on unit bulletin boards.

### **C. CREDIT AND CREDIT CARD PROTECTION**

To protect those seeking credit, Congress adopted the Consumer Credit Protection Act (CCPA). The CCPA requires the disclosure of the cost of credit to all potential borrowers, and provides a number of other protections for consumers. For example, the CCPA states that no credit card may be issued to an individual unless he requests or applies for it. 15 U.S.C. § 1673, et seq.

A credit card holder may be liable up to \$50.00 for the unauthorized use of the card, unless he or she notifies the card issuer of loss before the unauthorized use occurs. Before any liability can be incurred, however, the card issuer must have notified the cardholder of the potential liability and provided the cardholder with a description of a means by which the card issuer may be notified of any loss or theft of the card. Finally, unless the card itself provided some means of identifying the holder, such as a photograph or signature, no liability will be incurred for unauthorized use.

Other provisions of the CCPA require disclosure of information concerning interest rates in credit transactions, limit the techniques that can be used in advertising credit, require the establishment of procedures to settle disputes about credit billing and prohibit restriction of credit availability because of sex or marital status.

Those who encounter problems with credit are protected by the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681, et seq., which allows access to credit reports and an opportunity to correct inaccuracies in them, and the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692, et seq., which limits the methods creditors can use to collect debts.

## **SECTION IX. WILLS AND ESTATE PLANNING**

Estate planning is the continual process of coordinating your financial affairs to ensure financial security for you and your family. A well-designed estate plan should provide not only for the orderly transfer of assets at your death, but also take into account the need for retirement income and the possibility of mental or physical disability. A legal assistance attorney can provide advice on effective estate planning, particularly for estates of limited value; high-value estates may require use of estate planning specialists. Your legal assistance attorney can advise you about your needs.

### **A. LAST WILL AND TESTAMENT**

A will is a document which allows you to make provisions for the distribution of your assets and property upon your death. It also allows you to determine who will be responsible for distributing your property, and who will be responsible for the care of minor children upon your death. A person who dies without a will is considered to have died "intestate." If you die intestate, state law will determine who will inherit your property, who will settle your estate, and who will care for your children. Each state has its own particular laws regarding intestate descent and distribution, and the distribution scheme may not be one you would choose for yourself. Therefore, you should make a will if you are married, have children, have a specific beneficiary in mind, or have

substantial assets. A will can be prepared by your local legal assistance attorney.

Each state has statutes which establish the requirements for a valid will. The District of Columbia, Maryland, and Virginia all require a testator (the person whose will it is) to be at least 18 years of age and of sound mind at the time the will is executed. Sound mind requires that the testator know that he/she is executing a will; know the general nature and extent of his/her property; and know his/her decedents or other relatives that would ordinarily be expected to share in his/her estate. In D.C., Maryland, and Virginia, a will must be signed in the presence of at least two witnesses, who are not beneficiaries under the will, in order to be valid. D.C. Code § 18-102, et seq.; MD. Ann. Code §§ 4-101 and 102; VA. Code § 64.1-45, et seq.

## **B. LIVING WILLS**

A living will, also known as an Advanced Medical Directive (AMD), is a document that expresses your desires concerning the medical treatment you wish to receive if you are incapable of making such a decision. It can also be used to designate another person to make the decision for you in such a situation. 10 U.S. Code, § 1044c provides that an AMD lawfully prepared by a legal assistance attorney has full effect in all states that recognize AMDs, the District of Columbia, Puerto Rico, and U.S. Possessions. If you want an AMD, contact your local legal assistance office.

## **C. DURABLE POWERS OF ATTORNEY FOR HEALTH CARE**

A durable power of attorney for health care, also known as a health care power of attorney, is a document that delegates health care decision-making powers to another individual known as an agent. The agent has the same power to make health care decisions as the principal. The health care power of attorney is similar to the AMD in that the agent may have the ability to withdraw life-support treatment; however, it may authorize much broader powers beyond the removal of life-support. In some states, court approval may have to be obtained prior to withdrawing life-support treatment. Some forms direct agents to take specific courses of action while others merely authorize the agents to act. If you have any questions about the health care power of attorney or would like a health care power of attorney, please contact your local legal assistance attorney.

## **D. LIFE INSURANCE**

Life insurance is an important tool for providing financial security for your family members. Through life insurance, you can create an immediate estate of sufficient size to ensure adequate income for your family members upon your death. In determining your life insurance needs, consider the desired monthly income you would like your survivors to have as well as the various military benefits available for military survivors, including the Survivors Benefit Plan and Social Security. Servicemembers contemplating the purchase of commercial insurance should look closely to determine whether the policy will carry a "war clause." Such clauses typically allow insurance companies to avoid payment on a contract of insurance if the servicemember is killed in war or by a "military service hazard."

You have the right to name any person(s) you choose as the beneficiary(ies) of your life insurance policy(ies). You should review your life insurance policies regularly to ensure the persons you desire to receive your insurance benefits are named as beneficiaries. If you originally used the designation "by law" when you named the beneficiaries of your Servicemen's Group Life Insurance policy, you need to revise that form at your personnel office to specify the actual people you want to be your beneficiaries.

## **SECTION X. POWERS OF ATTORNEY**

A Power of Attorney (POA) is a written instrument that allows you (the "principal") to authorize your agent (the "attorney-in-fact") to conduct certain business on your behalf. It is one of the strongest legal documents that you can give to another person. There are two types of POA; "general" and "special" (or limited). A general POA gives your agent very broad powers to act on your behalf; and a special POA limits your agent's authority to act only on certain matters. Every act performed by your agent within the authority of the POA is legally binding upon you. Since a POA is such a powerful document, it should be given only to a trustworthy person, and only when absolutely necessary. Your local legal assistance office can advise you about, and prepare for you, the appropriate type of POA needed for your situation.

### **A. GENERAL POWER OF ATTORNEY**

A General POA gives your agent the authority to do most things you could do yourself, such as write checks and pay bills, borrow money, and sign contracts in your name. Your agent cannot perform certain actions which require your personal attention, such as taking an oath. General POAs may not be accepted for the performance of certain acts, such as cashing Government checks, or conducting real estate transactions.

### **B. SPECIAL (LIMITED) POWER OF ATTORNEY**

A special, or limited, POA authorizes your agent to do only a specified act, such as sell your car, ship your household goods, or cash your paycheck. Some acts may only be accomplished with a special POA. For example, authorizing someone to buy or sell real estate in your name requires a special POA which describes, in great detail, the property and the specific acts to be done by your agent.

### **C. SPECIAL POWER OF ATTORNEY TO ACT "*IN LOCO PARENTIS*"**

This is a common type of special power of attorney. The phrase "*in loco parentis*" means "in the place of the parent." This type of special POA grants parental authority to another (such as a babysitter) to perform a range of functions which can include picking up a child from school, buying food and clothing, and consenting to medical treatment of the child in the event of illness or injury.

Without this type of special POA, a day care center, school, store, hospital or clinic, fearing legal repercussions, may refuse to follow the directives of the babysitter or other agent, and require the specific authorization of the actual parent. This grant of authority will assist the agent in the daily business of looking after the child, and can avoid

unnecessary delays in emergencies. Furthermore, the special POA provides legal protection for the facility, and also for the agent who might otherwise fear taking action on behalf of the child.

Your legal assistance attorney can prepare the "*in loco parentis*" special POA. You may also want to ask about other special powers of attorney that allow for such things as emergency medical treatment, which give less authority to the individual and may be more practical for the given situation.

#### **D. GENERAL CONSIDERATIONS**

1. A POA becomes void upon the death of the principal.
2. A POA normally is void if the principal becomes physically or mentally incapacitated. However, appropriate "durability" language may be added to the POA that will ensure that it remains valid during any period of incapacity.
3. Any third party has the right to refuse to accept a POA.
4. A POA should be given for only a limited time period (such as six months during a deployment). A third party is more likely to accept a POA with a recent date than one which is many months or years old.
5. Many financial institutions and other businesses have their own POA'S which they prefer to be used to conduct business. It is a good idea to show your POA to all known third parties who may be dealing with your named attorney-in-fact to ensure that your POA is acceptable to them.
6. Never give a general POA when a special POA will accomplish the mission. There is less opportunity for abuse when only limited powers are given.
7. A special POA should be as specific as possible. For example, if you are authorizing an attorney-in-fact to sell a vehicle on your behalf, specify the vehicle, license number, vehicle identification number, the make/model/year of the vehicle, and any specific terms you will require. Your legal assistance attorney can help you tailor the POA to suit your precise needs.
8. You may revoke a POA before its expiration date by executing a revocation of the POA. Notice of the revocation must be delivered to the attorney-in-fact, as well as to all third parties who you know relied on the POA. If possible, recover from the attorney-in-fact and destroy the original and all copies of the POA. Even though the POA has been revoked, you may be responsible to any third party who did not receive notice of the revocation.



## **SECTION XI. ADDITIONAL RESOURCES**

### **A. SMALL CLAIMS COURTS**

#### **1. DISTRICT OF COLUMBIA**

Small Claims and Conciliation Branch  
Superior Court of the District of Columbia  
Room JM260, 500 Indiana Avenue N.W.  
Washington, DC 20001  
Telephone (202) 879-1120

#### **2. MARYLAND**

Maryland has no specific "small claims court." Small claims are handled through the District Courts in both Montgomery and Prince George's counties.

Montgomery County  
11 First Field Road  
Gaithersburg  
Telephone: (301) 279-1502

Prince Georges County  
14735 Main Street  
Upper Marlboro  
Telephone: (301) 952-4070

#### **3. VIRGINIA**

In Virginia, small claims are filed in the County or General District Court of the particular locality involved. Some locations include:

City of Alexandria  
520 King Street  
Alexandria  
Telephone: (703) 838-4020

City of Falls Church  
300 Park Avenue  
Falls Church  
Telephone: (703) 241-5096

Arlington County Court House  
1425 N. Court House Road, Room 2500  
Telephone: (703) 358-4485

Fairfax County  
4110 Chain Bridge Road  
Telephone: (703) 246-2115

Prince William County Court  
Manassas  
Telephone (703) 631-1703

## **B. SOCIAL AND FAMILY SERVICE AGENCIES**

Personnel arriving in the Washington area have the following resources available to them for assistance with personal or family problems:

### **1. MILITARY**

Social Work Service  
Walter Reed General Hospital  
Walter Reed Army Medical Center  
Washington, DC 20307  
Telephone: (202) 782-6378

Social Work Officer  
Mental Health Consultation Service  
Andrew Radar Health Clinic  
Fort Myer, Virginia 22211  
Telephone: (301) 981-6444

Social Work Officer  
Mental Health Consultation Service  
DeWitt Army Hospital  
Fort Belvoir, Virginia 22060  
Telephone: (703) 805-0488

Army Community and Family Support Center  
4700 King Street  
Alexandria, Virginia 22331-0522  
Telephone: (703) 681-7466

Marine Corps Family Service Center  
Building 204, Henderson Hall  
Arlington, Virginia 22204  
Telephone: (703) 694-5064

Navy Relief Society  
Arlington Navy Annex Room 1228  
Arlington, Virginia 22204  
Telephone: (703) 696-4901

## **2. NON-MILITARY**

### American Red Cross

District of Columbia Chapter  
2131 K Street NW  
Washington, DC 20037  
Telephone: (202) 728-6401

Prince George's County Chapter  
6206 Bellcrest Road  
Hyattsville, Maryland 20782  
Telephone: (301) 559-8500

Montgomery County Chapter  
2020 East-West Highway  
Silver Spring, Maryland 20910  
Telephone: (301) 588-2515

Alexandria Chapter  
123 North Alfred Street  
Alexandria, Virginia 22314-3059  
Telephone: (703) 549-8300

Arlington Chapter  
4333 Arlington Boulevard  
Arlington, Virginia 22203  
Telephone: (703) 527-3010

National Capitol Chapter  
2810 Old Lee Hwy Suite 100  
Fairfax, Virginia 22030  
Telephone: (703) 876-0700

### Other Resources:

Family and Child Services of D.C.  
929 L Street, N.W.  
Washington, DC 20001  
Telephone: (202) 289-1510

Family Service Agencies Inc. of Montgomery County, Inc.  
620 East Diamond Ave., Suite J  
Gaithersburg, Maryland 20877  
Telephone: (301) 840-2000

Family Service of Prince Georges County, Inc.  
5301 76 Ave.  
Landover Hills, Maryland 20784  
Telephone (301) 459-2121

Northern Virginia Family Service  
100 N. Washington Street, Suite 400  
Falls Church, Virginia 22046  
Telephone: (703) 533-9729

Northern Virginia Family Service  
3321 Duke Street  
Alexandria, Virginia 22314  
Telephone: (703) 370-3223

Child Support Enforcement Administration  
Maryland  
Telephone: (301) 952-4716

Maryland Department of Human Resources  
(Child Abuse/Neglect)  
Telephone: (301) 909-2450

Both the military and civilian resources indicated above can provide services to individual or family groups in such areas as: marital counseling, financial management, adoption planning, child placement, child guidance (limited to certain agencies), and in other related areas. Military personnel are eligible for the services of all of these and other public and private agencies on the same basis as are non-military.

Army personnel desiring assistance from the Army Emergency Relief should contact the AER Officer where they are assigned. Alternatively, the American Red Cross Chapter will assist in processing a request for AER relief.

## **C. TAX OFFICES**

### **1. GENERALLY (FEDERAL): 1-800-424-1040**

### **2. DISTRICT OF COLUMBIA**

District of Columbia Individual Income Tax  
941 North Capitol St NE  
Washington, DC 20002  
Telephone: (202) 727-4829

### **3. MARYLAND**

Maryland State Income Tax  
11510 Georgia Avenue, Ste 190  
Wheaton, MD 20902  
Telephone: (301) 949-6030

Maryland State Income Tax  
14735 Main Street, Room 083B  
Upper Marlboro, MD 20772  
Telephone: (301) 952-2810

Maryland State Comptroller  
(301) 974-3801

### **4. VIRGINIA**

Commissioner of the Revenue  
2100 Clarendon Blvd. Ste 200  
Arlington, Virginia 22201  
Telephone: (703)228-3033

Division of Finance  
Fairfax County, Drawer B  
4110 Chain Bridge Road  
Fairfax, Virginia 22030  
Telephone: (703)222-8234

Commissioner of Revenue  
City of Fairfax  
City Hall  
10455 Armstrong Street, Room 210  
Fairfax, Virginia 22030  
Telephone: (703) 385-7884

Director of Finance  
Revenue Administration  
City of Alexandria  
301 King St., Room 1700  
Alexandria, Virginia 22314  
Telephone: (703) 838-4560 (Personal Property)  
(703) 838-4570 (State Income Tax)

Commissioner of the Revenue  
City of Falls Church  
City Hall, 300 Park Avenue  
Falls Church, Virginia 22046  
Telephone: (703) 241-5065

#### **D. VEHICLE REGISTRATION/LICENSES (URL: [State Motor Vehicle Offices](#))**

1. Maryland Motor Vehicle Administration  
(301) 729-4550  
1-800-950-1682
2. District of Columbia (Motor Vehicle & Driver's License)  
General Information: (202) 727-5000
3. Virginia (Motor Vehicle Department)  
Licensing: (703) 845-6011  
Registration: (703) 845-6008

Other [State Motor Vehicle Offices](#)

#### **E. CONSUMER PROTECTION**

The best service provided by the agencies listed below is an explanation of your rights and obligations prior to entering into a consumer transaction. In some cases, they can tell you whether complaints have been made against specific dealers or businesses. If you are contemplating entering into a transaction with a business you have doubts about, you should call the appropriate agency **prior** to signing a contract or making a purchase.

##### **1. DISTRICT OF COLUMBIA**

District of Columbia Rent Commission  
1329 E. Street, N.W.  
Washington, DC 20004  
(202) 724-5600  
(Rent Control)

District of Columbia Office of Consumer Affairs  
614 H Street NW  
Washington, DC 20001  
(202) 727-7175

Environment and Consumer Protection Division  
450 5th Street, NW  
Washington, DC 20001  
(202) 783-2257/2258

##### **2. MARYLAND**

Maryland Better Business Bureau  
(202) 393-8000

Maryland Attorney General  
Consumer Protection Division  
200 St Paul Place  
16<sup>th</sup> Floor

Baltimore, MD 21202  
(410) 576-6550  
1-888-743-0023

Consumer Protection Office  
(301) 528-8662 (Baltimore)  
(202) 470-7534 (DC metro)  
(800) 492-2114

Attorney Grievance Commission (410) 514-7051  
800-492-1660

Maryland State Bar Association (800) 492-1964

Maryland State Insurance Commission  
(410) 468-2383

Maryland Veterans' Commission (800) 446-4926

Department of Agriculture  
Weights and Measures Office  
(contents of packaged products, etc.)  
(410) 841-5782

Public Service Commission  
(gas & electric consumer complaints)  
(410) 767-8066

Maryland State Banking Commissioner  
(410) 260-7264

### **3. VIRGINIA**

The Office of Consumer Affairs was established in Virginia in 1980. Problems of apparent illegal, fraudulent, or dangerous practices should be referred to them.

Office of Consumer Affairs, VDAC  
1100 Bank St., P.O. Box 1163  
Richmond, Virginia 23209  
(800) 552-9963

Alexandria Office of Consumer Affairs  
Post Office Box 178  
Alexandria, Virginia 22313  
Telephone: (703) 838-4350

Arlington County Office of Consumer Affairs  
1400 Courthouse Road  
Arlington, Virginia 22201  
Telephone: (703) 358-3260

Department of Consumer Affairs  
3959 Pender Drive  
Fairfax, Virginia 22030  
Telephone: (703) 222-8435

#### **4. ARMED FORCES DISCIPLINARY CONTROL BOARD**

Send complaints to:

President of the AFDCB  
Military District of Washington  
Fort Leslie J. McNair  
Washington, DC 20319-5050  
(202) 475-0555 or 475-0721

#### **F. LOCAL LAWYER REFERRAL SERVICES**

##### **1. DISTRICT OF COLUMBIA** URL: [http://www.dcbar.org/pro\\_bono/lsp1.html](http://www.dcbar.org/pro_bono/lsp1.html)

District of Columbia Lawyer Referral  
1707 L Street, NW  
6th Floor  
Washington, DC 20036-4202  
(202) 223-6600 ext. 224

##### **2. MARYLAND** URL: <http://www.abanet.org/referral/lris-klm.html#md>

Maryland Bar Association Lawyer Referral (Montgomery County)  
27 E. Jefferson Street  
Rockville, MD 20850  
(301) 279-9100

Maryland Bar Association Lawyer Referral (Prince George County)  
(301) 952-1440 (No address, telephone service only)  
1-877-415-1040

Maryland State Bar Association Lawyer Referral  
5200 West Fayette  
Baltimore, MD 21201  
1-800-492-1964  
(410) 337-9102

##### **3. VIRGINIA** URL: <http://www.vsb.org/vlrs.html>

Alexandria Bar Association Lawyer Referral  
520 King Street



Room 202  
Alexandria, VA 22314  
(703) 548-1105

Arlington County Bar Lawyer Referral  
1425 North Courthouse Road  
Room 1800  
Arlington, VA 22201  
(703) 358-3390

Fairfax County Bar Lawyer Referral  
10605-B-2 Judicial Drive  
Fairfax, VA 22030  
(703) 246-3780

Virginia Lawyer Referral Service  
707 East Main St., Suite 1500  
Ross Building, 10th Floor  
Richmond, VA 23219  
804-775-7977

[American Bar Association Lawyer Referral Service](#) (with links):